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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

## **ROBERT LATRELLE GLASS,**

Plaintiff,

C 04-4007 CW (PR)

## **STIPULATION AND ORDER OF DISMISSAL**

ANTHONY LAMARQUE, et al.

### Defendants.

Following a mediation with The Honorable Magistrate Judge Nandor Vadas, the parties agree as follows:

- 23 A. Plaintiff Robert Latrelle Glass (Plaintiff) filed his Complaint in this action on  
24 September 22, 2004, and the Court ordered service on June 2, 2005. (Ct. Docket Nos.  
25 1, 5.)  
26 B. In his Complaint, Plaintiff alleges that while incarcerated at Salinas Valley State  
27 Prison he was denied access to the outdoors and exercise based on his classification as  
28 a C-status inmate.

1       C. In its Order of Service, the Court screened Plaintiff's Complaint and found that  
 2       liberally construed, Plaintiff's allegations that (1) he had been denied access to the  
 3       outdoors and exercise had stated a cognizable Eighth Amendment claim and (2) that he  
 4       had been denied exercise solely because of his C-status and for no legitimate  
 5       penological purpose, had stated a cognizable equal protection claim. (Ct. Docket No.  
 6       5.) The Court ordered service of Plaintiff's Complaint on Defendants Lamarque,  
 7       Mantel, Manuel, Treadwell, Caden, Monteiro, and Batchelor (Defendants).  
 8       Defendants filed a motion for summary judgment on June 9, 2006. (Ct. Docket Nos.  
 9       35, 36, 37, 38, 39, 47, 48.) The Court denied Defendants' motion for summary  
 10      judgement as to Plaintiff's Eighth Amendment claim and granted the motion for  
 11      summary judgment as to the Equal Protection Claim. (Ct. Docket No. 49.) The Court  
 12      referred this matter to The Honorable Magistrate Judge Nandor Vadas for mediation as  
 13      to the remaining Eighth Amendment claim. (*Id.*)

14     D. The parties mediated this matter before Magistrate Judge Vadas on May 10, 2007 at  
 15      California State Prison - Sacramento. A full and final settlement of this action was  
 16      reached by the parties. The parties wish to fully resolve all matters which were or  
 17      could have been asserted in this action. Therefore, they now enter into this stipulation  
 18      in order to fully settle and discharge all claims which are, or might have been, the  
 19      subject matter of the action, upon the terms and conditions set forth below.

20      IN ACCORDANCE WITH MATTERS DISCUSSED BY MAGISTRATE JUDGE  
 21      VADAS AND THE PARTIES AT THE MAY 10, 2007 MEDIATION, THE PARTIES  
 22      STIPULATE AS FOLLOWS:

1. Plaintiff agrees to the voluntary dismissal with prejudice  
 of the above-captioned action under Rule 41(a) of the  
 Federal Rules of Civil Procedure.
2. In consideration for a release of all claims and a stipulation of dismissal in this action,  
 the California Department of Corrections and Rehabilitation (CDCR), on behalf of  
 Defendants, agrees to the following: (1) to pay Plaintiff Three Thousand Dollars and  
 no cents (\$3,000); and (2) to bring Plaintiff before a classification committee to

1 reclassify Plaintiff's status to A1/A status.

- 2 3. At the time that Plaintiff signs this stipulation, he shall also sign and return to defense  
3 counsel a Payee Data Record form. Upon receipt of the executed Stipulation and  
4 Order of Dismissal and Payee Data Record Form, CDCR will have up to 90 days to:  
5 (1) issue the settlement payment check; and (2) bring Plaintiff before a classification  
6 committee to reclassify Plaintiff's status to A1/A status.
- 7 4. Plaintiff expressly waives and assumes the risk of any and all claims for damages  
8 which exist as of this date, but which he does not know or suspect to exist, whether  
9 through ignorance, oversight, error, negligence, or otherwise, and which, if known,  
10 would materially affect his decision to enter into this settlement agreement. Plaintiff  
11 has read the contents of Section 1542 of the Civil Code of the State of California, and  
12 he expressly waives the benefits of this section. Section 1542 reads as follows: "A  
13 general release does not extend to claims which the creditor does not know or suspect  
14 to exist in his or her favor at the time of executing the release, which if known by him  
15 or her must have materially affected his or her settlement with the debtor."
- 16 5. In consideration of the obligations set forth in Paragraph 2, Plaintiff completely  
17 releases and forever discharges Defendants, all served and unserved defendants,  
18 CDCR, Salinas Valley State Prison, and any unnamed defendants, from any and all  
19 claims that are the subject of the action as alleged in Plaintiff's Complaint that are  
20 based on, related to, or derived from the alleged acts or omissions of Defendants,  
21 CDCR, or Salinas Valley State Prison as alleged in Plaintiff's Complaint filed in this  
22 action.
- 23 6. Under California Penal Code § 2085.5 all outstanding restitution orders and fines must  
24 first be paid directly from this settlement. The restitution fines and fees, if any, shall  
25 be deducted from the settlement proceeds and the remainder of the settlement amount  
26 will be issued by check payable to Plaintiff.
- 27 7. This agreement does not constitute an admission of liability or any wrongdoing on  
28 behalf of any party.

8. Each party shall bear his own attorneys' fees and costs.
9. This stipulation shall constitute the entire agreement between the parties arising from the allegations alleged in this action, and it is expressly understood and agreed that this stipulation has been freely and voluntarily entered into by all parties. It may not be altered, amended, modified, or otherwise changed in any respect except by writing duly executed by the parties to this agreement.

## IT IS SO STIPULATED.

Dated: May \_\_\_\_ , 2007

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**ROBERT LATRELLE GLASS, PLAINTIFF**

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Dated: May \_\_\_, 2007

**MICHAEL DAVIS, SENIOR COUNSEL**  
Office of Legal Affairs  
California Department of Corrections and  
Rehabilitation

Dated: May \_\_\_\_ , 2007

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**TRACE O. MAIORINO**  
Deputy Attorney General  
Attorneys for Defendants Lamarque, Mantel, Manuel, Treadwell,  
Caden, Monteiro, and Batchelor

## ORDER

IT IS HEREBY ORDERED that this case against Defendants shall be dismissed with prejudice.

IT IS SO ORDERED.

Dated: 6/8/07

Chadwick

**THE HONORABLE CLAUDIA WILKEN**  
United States District Court Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

## GLASS,

Plaintiff,

V.

LAMARQUE et al,

**Defendant.**

Case Number: CV04-04007 CW

## **CERTIFICATE OF SERVICE**

LAMARQUE et al,

**Defendant.**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 8, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert Latrelle Glass J-36237  
California State Prison - Sacramento  
Prison Road  
P.O. Box 29-0066  
Represa, CA 95671

Trace O. Maiorino  
California State Attorney General's Office  
Correctional Law Section  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

Dated: June 8, 2007

Richard W. Wieking, Clerk  
By: Sheilah Cahill, Deputy Clerk